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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,184

08/22/2003

Keith Thomas

P1959US00

9055

32709

7590

09/01/2006

SUITER- WEST-SWANTZ PC LLC  
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EXAMINER

CHAVIS, JOHN Q

ART UNIT

PAPER NUMBER

2193

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/646,184

Applicant(s)

THOMAS, KEITH

Examiner

John Chavis

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/22/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Morrison et al. (2006/0143430).

What is claimed is:

Morrison

1. A method for determining computer system software load process, comprising:

See the title and the abstract.

loading computer system software on a computer; and

See sect. 0073.

providing a marker file in said loaded computer system software, said marker file indicating whether said loaded computer system software was loaded in a computer manufacturer's factory, loaded by a system restoration CD (SRCD), or loaded by downloading an image.

See sect. 0017-0018, 0021 and the last two lines of table 3 on page 4 (for ex., distribution information).

2. The method of claim 1, further comprising: when a program running on said computer abnormally terminates and said computer is able to send said marker file to a central authority, sending said marker file to said central authority by said computer.

See sect. 0028.

3. The method of claim 2, wherein

“ “ “ “

said marker file is used by said computer manufacturer to trace a cause of why said program running on said computer abnormally terminates.

4. The method of claim 1, further comprising: when a program running on said computer abnormally terminates and said computer is not able to send said marker file to a central authority, sending said marker file to said central authority by said computer after said computer reboots.

See sect. 0003 and 0024.

5. The method of claim 4, wherein said marker file is used by said computer manufacturer to trace a cause of why said program running on said computer abnormally terminates.

See sect. 0006.

6. The method of claim 1, wherein said marker file is dynamically generated when said loaded computer system software was loaded by downloading an image.

See sects. 0020-0021.

7. The method of claim 1, wherein said marker file is a static marker file loaded from said system restoration CD (SRCD) when said loaded computer system software was loaded by said system restoration CD (SRCD).

See sect. 0022 in which the required data is stored in a file.

8. The method of claim 1, wherein said marker file, when said loaded computer system software was loaded in a computer manufacturer's factory, is either dynamically generated or a static marker file loaded by said factory.

See the rejection of claim 1.

9. The method of claim 1, wherein

See sect. 0006.

said loaded computer system  
software is an operating system.

10. The method of claim 1, wherein  
said loaded computer system software  
is a device driver.

“ “ “

11. The method of claim 1, wherein  
said computer manufacturer is an OEM.

See sect. 0003.

As per claim 12, see the rejection of claim 7 above.

Claim 13 is rejected in via claim 7 in view of claim 4 and claims 14 and 16 are  
rejected via Claims 7 in view of claim 3.

The features of claim 15 are taught via claim 7 in view of claim 5.

In reference to claims 17-19, see the rejection of claim 7 in view of claim 8.

As per claims 20-22, see the rejection of claims 9-11 above.

Claim 23-24 are rejected in via claims 1-2.

In reference to claim 25, see the rejection of claim 4.

The features of claims 26-27 are taught via claims 10-11.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to John Chavis whose telephone number is (571) 272-  
3720. The examiner can normally be reached on M-F, 8:00am-4:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for  
the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2193

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

A handwritten signature in black ink, appearing to read 'John Chavis', with a stylized flourish at the end.

John Chavis  
Primary Examiner AU-2193